

Mark Carman - May 15, 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

MARK CARMAN, Individually)
and on behalf of All)
Others Similarly Situated,)
)
 Plaintiff(s),)
)
V.) NO. 2:22-cv-00313
)
PORTSMOUTH REDEVELOPMENT)
AND HOUSING AUTHORITY,)
)
 Defendant.)

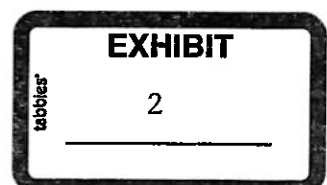
DEPOSITION UPON ORAL EXAMINATION OF

MARK L. CARMAN

TAKEN ON BEHALF OF THE DEFENDANT

Portsmouth, Virginia

Monday, May 15, 2023



Mark Carman - May 15, 2023

11

1 Q Okay.

2 A No, I don't think I told him I did.
3 I think he found out through a letter from the law
4 firm.

5 Q Okay.

6 A I don't think I talked -- because I
7 didn't talk to him the entire time I was in the
8 Philippines.

9 Q Okay. When was the first time that
10 you provided services for the Authority, do you
11 remember?

12 A I want to say June of 2021.

13 Q And how -- go ahead.

14 A Or July. It was either June or
15 July, I'm not sure.

16 Q Okay. And how did you come in
17 contact with the Authority such that you engaged
18 in this relationship?

19 A They ran an advertisement on
20 Indeed.

21 Q Okay.

22 A Posted it as an hourly wage
23 position. I responded. I was interviewed.

24 Q Do you remember with whom you
25 interviewed?

1 A Keyond Gorley.

2 Q Okay.

3 A And then a second interview with
4 Mr. Bland, and others were in the room.

5 Q Okay. And how was the offer to
6 provide services to the Authority made to you?

7 A You mean in writing or verbal?

8 Q Right, correct.

9 A It was verbal.

10 Q Okay. And do you recall what that
11 offer was?

12 A It initially was \$19 per hour.

13 Q Okay.

14 A And then it, I want to say within a
15 week or two, it was \$20 an hour, and then it went
16 to \$22 an hour.

17 Q Okay. Did you actually start
18 working at 19 or --

19 A Yes, ma'am.

20 Q Okay.

21 A I believe my first paycheck was at
22 19. I think so.

23 Q Okay.

24 All right. So over a short period
25 of time it increased to \$22 per hour?

1 A Yes.

2 Q And was that the amount per hour
3 that you agreed to be paid?

4 A Yes.

5 Q Until the end of your services?

6 A Yes.

7 Q Okay. When you worked by the hour.

8 A Right.

9 Q Okay. Did they have other security
10 guard officers providing the same services when
11 you first engaged with them?

12 A No.

13 Q So you were the first security
14 guard officer providing security for them?

15 A No, but with a qualification.

16 Q Okay.

17 A There was a captain from the
18 Sheriff's Department that had been dismissed from
19 the Sheriff's Department and he was working there,
20 and I'm told they were paying him and -- through
21 the -- I was told when I went to work there he was
22 getting paid as an off-duty police officer,
23 because they were getting paid much more per hour
24 than we were.

25 Q Okay. And that brings me to your

1 A I did.

2 Q Okay. Mr. Carman, is it fair to
3 say that you were paid directly by the Authority
4 every two weeks? Do you recall that?

5 A On the normal payroll cycle, yes.

6 Q Okay.

7 A That would be every two weeks.

8 Q Okay. And tell me how you
9 submitted time to the Authority so that you could
10 get paid for your hours worked.

11 A We were required to complete a
12 timecard showing the hours worked.

13 Q Okay. Tell me what that timecard
14 looked like.

15 And they provided it to you?

16 A Keyond Gorley gave us an Excel
17 sheet for us to write in our time, and we did
18 that. And I just went ahead and typed it up
19 because it was easier for me to keep records of it
20 for myself to save what I turned in.

21 Q Okay.

22 A And then we would give those to
23 Keyond Gorley.

24 Q Okay. So when you said an Excel
25 sheet, was it a printout of like --

1 A Yes.

2 Q Okay.

3 A With the grids.

4 Q Okay.

5 A And it said hours, you know, time
6 in, time out, hours worked; yes.

7 Q Okay. But you decided to type it
8 up yourself for recordkeeping purposes and so
9 could you read it and turn it in?

10 A Yes.

11 Q Okay. Did they dispute --

12 A I gave it to Keyond for him to
13 approve it.

14 Q Okay.

15 A I turned it into an Excel form
16 because I said, This looks sloppy, so...

17 Q Okay. So did they dispute with you
18 how you turned it in?

19 They just wanted some recording of
20 your hours worked, right, and your time in and
21 time out?

22 A I never heard any dispute about it.

23 Q Okay. And did you submit all your
24 hours worked when you provided services to the
25 Authority the whole time you provided services?

1 A Not after I went on salary.

2 Q Okay. So before you went on
3 salary, did you submit to them all the time that
4 you worked?

5 A Yes.

6 Q And did you get paid either 19, 20
7 or \$22 an hour for all that time?

8 A Straight time, yes.

9 Q Straight time.

10 A Yes.

11 Q So you got all your straight time.

12 A I had no question with my pay --

13 Q Okay.

14 A -- on that regard.

15 Q Okay.

16 A And I will say this. If there ever
17 was a discrepancy with myself or the other people,
18 it was a matter of addressing it, and it -- and
19 getting paid what was due was never a problem in
20 that regard.

21 Q Okay. And when you got the payment
22 from the Housing Authority, you noticed, correct,
23 that there were no payroll taxes or anything
24 deducted therefrom; right?

25 A Yes.

1 A I do.

2 (Offer of Employment, two pages
3 marked as Carman Exhibit Number 3)

4 BY MS. NORTH:

5 Q Okay. Is that your signature on
6 the second page?

7 A Yes.

8 Q And it says that the Portsmouth
9 Redevelopment and Housing Authority is pleased to
10 extend you an offer of employment for the position
11 of security program and risk management officer at
12 an annual salary of \$48,620; is that right?

13 A That is.

14 Q So does this refresh your
15 recollection on when you became full time employed
16 as a W-2 employee with the Authority?

17 A It does.

18 Q Okay. And before this time, tell
19 me in what capacity you were working as far as
20 full time, part time, and what you were doing
21 before this, right before this time.

22 A From August until this date --

23 Q Okay.

24 A -- I was working full time.

25 Q Okay. And what were you doing for

1 Q Did you take over that position, is
2 that --

3 A Kind of like he did when Keyond
4 Gorley left. I was the senior guy there, so it
5 was left up to me.

6 Q Okay. So when you were hired as an
7 employee in February -- on February 22nd, 2022,
8 you knew that was an employee, full time, and you
9 got your benefits and a guaranteed salary; right?

10 A I knew it was and I knew how it got
11 there is because I had been telling him,
12 Mr. Bland, You promised to put me full time in
13 September, and you haven't done it, and I either
14 need a job or I'm going to go get one and I'm
15 going to file a lawsuit on you.

16 Q Okay. But you knew when you were
17 hired in February of 2022 that you were hired to
18 manage this department with a guaranteed salary
19 and the benefits that came along with that as
20 stated in this offer letter; right?

21 A As stated in this offer letter,
22 yes.

23 Q Okay.

24 A I was -- I knew that, but I was
25 always -- the answer is yes.

1 Q I understood that you were
2 complaining about it beforehand, but I'm just
3 trying to establish when you were hired --

4 A I understand. The timing is this
5 day.

6 Q Okay. And I want to get an
7 understanding from you of what your job was.

8 You were to take over and to manage
9 the department and manage the other security
10 guards; right?

11 A By this letter.

12 Q Yes.

13 A By -- I will say this. My
14 testimony will be that I signed this under duress.
15 I signed this because it says on the back that I
16 had until 5 o'clock to do it --

17 Q Okay.

18 A -- and I wouldn't have a job if I
19 didn't do it, if I didn't accept this. And I
20 complained about it, I argued about it, but I
21 needed to have a job.

22 Q Okay.

23 A So, yes.

24 Q So you just said you had bugged
25 Mr. Bland about doing this, and he gave it to you.

1 So why were you signing under
2 duress if it's what you wanted?

3 A Because it wasn't near the amount
4 that I was supposed to get. It was -- it was
5 nothing. And, plus, he told me that this
6 (indicating) didn't mean anything; just to keep
7 doing what I was doing. That's what he told me.

8 Q Okay.

9 A He said, This job description, you
10 don't need to do all that insurance stuff, you
11 don't do any of that stuff. You just go keep
12 doing what you are doing.

13 Q Okay. So we will talk about what
14 you did then instead of the job description.

15 But just to be complete, if you
16 look at what we've entered as Exhibit Number 4, it
17 does say this was a job description for the
18 security program -- programs manager, which you
19 were given when you were offered this full-time
20 job in February 2022; right?

21 A Yes.

22 (Classification Description, four
23 pages marked as Carman Exhibit
24 Number 4)

25

1 A That was way early on.

2 Q All my questions right now are
3 after you signed the February 22nd, 2022 letter
4 where you became the manager of this department.
5 You didn't have to hire anyone because you had the
6 staff already in place, you're saying; right?

7 A Correct.

8 Q Okay. And did you have the
9 authority to recommend someone be disciplined or
10 terminated if they messed up who was on your team?

11 A It was made specifically clear to
12 me by Ed Bland I didn't have any authority to do
13 anything. He gave me that to shut me up
14 (indicating).

15 Q Okay. So the whole time that you
16 managed the team of people providing security
17 services to the Authority, you're saying you
18 didn't feel like you had the authority to go to
19 him and say, So-and-so messed up. We need to
20 write him up or terminate her.

21 A Ma'am, as of the date of this, I
22 got an email that said I'm no longer to have any
23 contact with Ed Bland and I have to do everything
24 through Valerie Jenkins.

25 Q Okay. When was that?

1 A Like the next day or so.

2 Q Okay.

3 All right. So, technically, you
4 reported to Valerie Jenkins after you signed that
5 document, Exhibit Number 3?

6 A Yes.

7 Q Okay.

8 All right. Did you make the team
9 schedules after the February 22, '22 letter, 2022
10 letter?

11 A Those schedules were submitted as a
12 recommendation to Valerie Jenkins, and she
13 approved it.

14 Q Okay. Did you communicate with the
15 team members on your team about the schedules and
16 where -- what to patrol, what properties to patrol
17 and, et cetera?

18 A Yes.

19 Q Okay. Did the team members submit
20 any of the daily reports to you at the end of the
21 shift or end of the day?

22 A They all reported to me at the end
23 of the shift and the end of the day.

24 Q Okay.

25 A Yes.

1 Q Okay. And then did you submit
2 whatever you submitted to higher level management
3 to Valerie Jenkins?

4 A Yes.

5 Q Okay. Did you have to request that
6 anybody on your team be disciplined for any
7 wrongdoing or misconduct?

8 A No.

9 Q Okay. Did you recommend that any
10 of them receive any kind of pay raise during the
11 time you managed them?

12 A No.

13 Q Did you have the authority to
14 recommend to Valerie that you thought someone
15 needed a pay raise?

16 A No.

17 Q So Valerie would just determine for
18 herself without any input from you if someone
19 needed a raise?

20 A It never came up. I wouldn't have
21 any idea.

22 Q Okay. Did you go through the
23 Portsmouth Authority's orientation for new hires
24 when you -- after you signed this letter?

25 A Yes.

1 Q Okay. And do you remember what
2 that consisted of, what type of training that was?

3 A Handed me a booklet and said, Read
4 this, sign here.

5 Q Okay. Employee handbook?

6 A Um-hum.

7 Q And did you do that?

8 A Yes.

9 Q Okay. Did they tell you you don't
10 need to record any hours at all for yourself?

11 A No. They told me that I had to
12 turn in 40 hours. I asked the question, So then
13 what happens if I get called out at it 2 o'clock
14 in the morning because there's a shooting?

15 Just turn in 40 hours.

16 Q And how many people were on your
17 team after February 22nd?

18 A Myself plus three.

19 Q And who were the three?

20 A Tenisha Stithe --

21 Q Okay.

22 A -- Kevin Perry and Nathaniel
23 Jackson.

24 Q Was it the three of them until you
25 resigned?

1 Q Okay.

2 A Maybe I'd been through enough and I
3 was just defeated.

4 Q Here is the next exhibit.
5 (2/24/22 email from Carman to
6 Bland, one page marked as Carman
7 Exhibit Number 5)

8 BY MS. NORTH:

9 Q What we've entered as Exhibit 5 is
10 an email from you to Mr. Bland; right?

11 A Yes.

12 Q And Edward Bland is the executive
13 director of the Authority; correct?

14 A Yes.

15 Q Okay. And it says as of
16 February 24th 2022, you were confirming in an
17 email some of the directives he had given you
18 about the use of force and carrying weapons in
19 your department; right?

20 A That's correct.

21 Q Some things were changing; is that
22 right?

23 A Yes.

24 Q Okay. And so was it up to you to
25 go back to your team members, Tenisha, Kevin, and

1 Nathan, and make sure they understood these
2 changes?

3 A Yes.

4 Q Okay. And were you to serve as the
5 compliance officer overseeing the accurate
6 documentation regarding all training and licensing
7 for the department?

8 A I've never been certified as a
9 compliance officer.

10 Q I don't -- I'm not talking about
11 any kind of official certification.

12 Were you designated like you said
13 here to serve as the compliance officer for the
14 Authority about overseeing training and licensing?

15 A That's what I had in mind at this
16 time.

17 Q Okay. Let me show you these last
18 documents.

19 There you go.

20 Mr. Carman, what we've entered as
21 Exhibit Number 6 is an email. At the bottom you
22 will see it's from you to Edward Bland with some
23 other individuals copied who are at the Authority;
24 right?

25 A Yes.

1 (2/24/22 emails re: Reduction in
2 security availability and
3 capability, two pages marked as
4 Carman Exhibit Number 6)

5 BY MS. NORTH:

6 Q And, again, it was to document and
7 implement some directives about reducing security
8 staff hours, not having weekend patrols, and that
9 the -- the fact that some -- some folks would be
10 unarmed; is that right?

11 A Whatever it says on the paper, yes.

12 Q Okay. And were you responsible for
13 making sure that the staff didn't work any more
14 hours than what was directed to you?

15 A No.

16 Q Who made sure that the hours
17 weren't exceeded?

18 A Valerie Jenkins -- or Valencia
19 Jenkins.

20 Q Okay.

21 A I keep calling her Valerie Jenkins.
22 It's Valencia.

23 Q Okay.

24 A It's -- "Val" is what we always
25 called her.

1 A Absolutely none.

2 Q Okay. And let me see here.

3 This is what I need next. This is
4 your resignation. I forgot to put a sticker on
5 it. Forgive me.

6 Do you recognize that, Mr. Carman?

7 A I do.

8 Q Okay. What we've entered as
9 Exhibit Number 9 is your resignation; is that
10 right?

11 A Yes.

12 Q And it's dated May 3rd, 2022?

13 A Yes.

14 (5/3/22 email re: My resignation,
15 two pages marked as Carman Exhibit
16 Number 9)

17 BY MS. NORTH:

18 Q Did you depart on May 3rd, 2022,
19 that same day?

20 A I'm pretty sure I did.

21 Q I just didn't know if you recalled
22 giving any kind of notice.

23 A No.

24 Q All right. And so you told the
25 Authority that you were resigning and that you

1 know other than -- what I understand is that this
2 action is exclusive for unpaid overtime wages.

3 Q Okay. I appreciate that.

4 Let me hand you the last exhibit.

5 A Okay.

6 Q It's your pay.

7 And do I have that right? Is that
8 10?

9 A Yeah, this is 10.
10 (Pay Detail, 45 pages marked as
11 Carman Exhibit Number 10)

12 BY MS. NORTH:

13 Q Take a look at that packet,
14 Mr. Carman, and I need you to clarify whether
15 that's all the hours you submitted and this is all
16 the pay that you received from the Authority.

17 A Do you want me to go through every
18 single one of these?

19 Q Yes, sir. Hopefully it's the not
20 the first time you've been seeing some of this
21 stuff, so...

22 A Well, it is. It will take awhile.

23 Q Take your time.

24 A May I ask a couple qualifying
25 questions to kind of short-shoot through this?

1 Q Sure.

2 And let me direct your attention to
3 the first thing right here.

4 If you look on the second page,
5 Number 2, is that something you all would submit,
6 your team, to the Portsmouth Authority?

7 A Yes.

8 Q It has hours.

9 So if you look -- that's why I was
10 hoping you can see your name and you can see the
11 dates you worked and the hours you worked and the
12 rate.

13 A Um-hum.

14 Q So can you verify that?

15 A This appears to be correct.

16 Q Okay.

17 A As far as the total and all that, I
18 would have to go here line by line and go based
19 off the emails and stuff where I emailed these in
20 and kept my own records, but I'm pretty sure,
21 because some of these documents -- this one here,
22 this is signed by Marc Gonzalez.

23 Q Sometimes they have both your names
24 on it --

25 A Yeah.

1 Q -- because it's both of you.

2 So it's just for you to verify on
3 behalf of yourself, not on behalf of anybody else.

4 A I'm going to do this. I'm going to
5 say it this way. Based upon my experience in
6 accounting with the PRHA, I'm going to assume this
7 is a thorough document and I'm going -- my
8 testimony -- my answer will be that, qualified
9 with this. If all of the pay sheets are here,
10 this would be an accurate assessment --

11 Q Correct. Okay, I appreciate that.

12 A -- instead of going through line by
13 line.

14 Q I understand that.

15 All right. And if you could look
16 at that, this is for the time that you worked
17 before you became an employee in February of 2022.

18 If you look at this, it takes you
19 through the end of 2021.

20 A Yes.

21 Q Okay. And so, again, if you turn
22 to the second page of Exhibit 10 and you see your
23 name and the date worked and the hours worked and
24 the hours and the rate, of course you submitted
25 those hours; right? On behalf of yourself.

1 Do you see where it says Mark
2 Carman?

3 A Yes, I submitted those to the
4 supervisor.

5 Q Okay. So whenever we see this type
6 of document in your packet related to you and your
7 hours, you are testifying that those are accurate
8 hours that you worked during that time?

9 A Not being able to dispute it and
10 knowing the accounting of my previous
11 experience --

12 Q Yes, sir.

13 A -- I'm going to stipulate that is
14 accurate.

15 Q Okay. Thank you.

16 A I believe that to be accurate.

17 Q Okay. So I lied a little bit. I
18 thought that was the last exhibit, but this is
19 actually the last exhibit.

20 A I don't want to have to say in
21 front of this court reporter that I need to use
22 the bathroom.

23 Q Let's go ahead and take a break.

24 A If you just got one more
25 document...

Mark Carman - May 15, 2023

97

1 Q Let's -- it's certainly fine for
2 you to take a break.

3 A I didn't want that in the record,
4 but...

5 Q It's okay.

6 A I know.

7 Q Here you go. Take a look at that
8 for me, Mr. Carman. I would submit that this is
9 your pay for the time that you were an employee
10 and being paid a salary.

11 A Okay.

12 (Pay Summary, seven pages marked
13 as Carman Exhibit Number 11)

14 BY MS. NORTH:

15 Q So you just look at that and let me
16 know --

17 A Yes, I'll stipulate this is
18 accurate because I never seen -- I have never seen
19 these type sheets.

20 Q Okay. But I just want you to look
21 at the information on it.

22 Your salary, according to the
23 payroll, was 1870 biweekly based on the salary in
24 your employment letter; right?

25 A I believe that would be accurate.

1 worked?

2 A I am asserting that, yes.

3 Q Okay. So we need to go through and
4 from February 22nd of 2022 through May 3rd, I need
5 to know how many hours per week you're saying you
6 worked.

7 A I -- it would be mere speculation
8 because it really was around-the-clock. It would
9 be work a normal 40-hour week; okay? That normal
10 40-hour week would be arrive at about 8:30 --

11 Q Okay.

12 A -- and then I would work about four
13 to six hours, then come back because most of our
14 work would be in the evening hours.

15 Q Okay.

16 A Now, there were times when I would
17 get called out first thing in the morning because
18 there's somebody sleeping in one of the foyers in
19 one of the apartment-type houses.

20 Q Okay.

21 A So I would respond to that.

22 If there's a shooting. If there's
23 a fire. If there is some sort of a serious-nature
24 thing, the police were told to notify me. So I
25 would get a call from 911 dispatch to respond.

1 So I don't have any way of
2 calculating it.

3 I can say that a typical week would
4 be -- it seemed like I worked all the time,
5 because sometimes I did.

6 But a typical week would -- after
7 they cut it back to the 33 hours piece for those
8 guys, I was probably working 60 hours a week,
9 roughly.

10 Q Okay. I need you to try to do your
11 best to be as specific as possible because you're
12 claiming unpaid money for it.

13 A Yeah. And I don't have any way to
14 back it up because I didn't keep those records. I
15 was told to turn it in. So it's mere speculation
16 on my part. So if I can't prove that, I can't
17 prove it, but I'm just going based on what I can
18 recall.

19 Q Okay. And you think you were --
20 you think you worked 60 hours per week?

21 A And I'm -- I'm going to say that
22 that was -- that that's probably conservative.

23 Let me do it this way. I would
24 work a shift with them almost every day. Then I
25 would work four, maybe six, seven hours before

1 Q You said they were directed to call
2 you, so...

3 A No, no, no. I think we're talking
4 about two different things.

5 Q Okay.

6 A The 911 dispatch, the police
7 dispatch or fire dispatch would call my house.

8 Q Yeah.

9 A I also had a radio that
10 communicated with the police --

11 Q Okay.

12 A -- and the fire. So I had police
13 and fire channels.

14 Q All right.

15 A So I would get calls to respond.

16 Q Okay.

17 A Now, as far as the employees, yes,
18 we'll go back to our previous conversation -- the
19 previous question -- where if they got in a
20 situation where they ran up on something, hadn't
21 been reported to 911 -- I seem to recall that they
22 rolled up on a stabbing where a woman was
23 murdered, and they got there before 911 got it,
24 I'm pretty sure, because they saw it on normal
25 patrol and I was heading that way when I got the

1 call.

2 Q When you got the call.

3 A So, yes, they would let me know --

4 Q Okay.

5 A -- as I would have let them know,
6 and I always did let them know when 911 called me,
7 Hey, you need to roll this direction.

8 Q Okay. I'm trying to clarify,
9 though.

10 But 911, when the police or
11 firehouse called you, it was because --

12 A I was the manager.

13 Q Right, okay.

14 A That is correct.

15 Q Okay.

16 Okay. And the -- to the best of
17 your recollection, you're going to say you worked
18 60 hours per week, because you're going to have to
19 answer this.

20 A Yes.

21 Q It was due today. And so that's
22 why I'm trying to press you on --

23 A I understand.

24 Q -- now is the time to do to the
25 best of your recollection how many hours a week